

The Washington Board

*Informing Professional
Engineers and Professional
Land Surveyors of the events
and developments that affect
their professions*



Journal

Number 32 • Fall 2003

INSIDE:

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MESSAGE FROM THE CHAIR 2

NEWS TO YOU

Study Of Survey Recording Act Proposed	3
Governor Locke Makes Quick Decision Appointment	3
A Reminder From The Board And DNR To Protect Survey Monuments .	3
Have We Hit A Nerve?	4
As The Courts See It	5
It's Not Too Early	5
Using the Designated Engineer or Land Surveyor	6
Discussions With Canadian Licensing Association	7
New Definitions In Model Law On Land Surveying	7
Incidental Surveying Practice By Professional Engineers	8
"Do It" . . . On-Line	8
Questions & Answers	9
Board Website	10

ON-SITE DESIGNER LICENSING

Continuing Education For On-Site Program	11
Designer Licensing Examination	11
Board Studies Possible Adjustment In Fees For On-Site Program	11

EXAMINATIONS

April 2003 Examination Results	12
NCEES Announces New Format For Structural II Examination	12
Forest Engineering Exam May End	13
NCEES To Enhance Examination Security	13

INVESTIGATIONS AND ENFORCEMENT

Statistics of Disciplinary Actions Taken by the Board	14
Summaries Of Investigations	14

SCHEDULES

Examination Schedule	23
Calendar	23

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The Washington Board Journal is published biannually by the Washington Board of Registration for Professional Engineers and Land Surveyors, George A. Twiss, P.L.S., Executive Director.

If you, or someone you know, would like to receive a copy of this publication, please contact the Board of Registration for Professional Engineers and Land Surveyors.

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Message from the Chair

“The Message from the Chair” is a reflection of the personal opinions and experiences of the Board Chair. Comments in the article may be shared by various members of the Board, but they are not to be interpreted as a policy, position, or consensus of the Board unless specifically so indicated.

Views On Ethics And The Role Of The Board

By: Lyle J. Hansen, PE.

Late last year the Board received a letter from a civil engineer who is also a heavy construction contractor. In the letter he expressed strong disappointment in the ethical conduct he has observed in some engineers he has known. He was not making a specific complaint or asking for the Board to take any particular action. He felt that he needed to share his experiences with the Board. His letter described the following types of behavior:

- Public officials making false statements in public meetings.
- Public officials from one department ignoring false or incorrect statements by public officials from another department even though the statements were detrimental to a local business.
- Creating minutes of meetings that were significantly different than actual discussions and decisions.
- Refusal to change minutes when they were known to contain false information.
- Blatant conflict of interests by having a group of consultants “cover for each other”.
- Design specs written to limit vendor competition, resulting in lower quality products but not necessarily lower priced.
- Doing whatever was “in the best financial interest of the client”.

At the Board office we frequently receive communications asking for clarification on an ethical issue, or making complaints against individuals for apparent ethical violations. The Board appreciates letters from licensees that draw attention to specific concerns. Before discussing the issues generated by the above letter, an attempt to define ethics would be in order.

Random House College Dictionary, 1st Edition, defines Ethics as a system of moral principles. They are rules of recognized conduct in respect to a particular class of human actions, or a particular group culture.

During professional careers that have encompassed up to 40 years in duration, members of this board have had occasion to attend numerous classes on ethics. The companies or agencies that have employed us have often considered these classes to be mandatory. Depending upon where you might have been in an organization the amount of attention paid to ethics varied. If you were in a management position most often ethics presentations were given at least annually. You often had to verify your presence at these classes by signing a document stating you had attended. That information would subsequently be recorded in your personnel file.

Continues page 22

Study Of Survey Recording Act Proposed

In response to increased questions and confusion on the application of the Survey Recording Act precipitated by a series of articles in recent Board Journals, the Survey Advisory Board asked the Board of Registration (BOR) to convene an ad hoc committee to study the current interpretations of the Survey Recording Act in hopes that recommendations could be made to eliminate the confusion and ambiguity of how the Recording Act is applied to various situations. It was believed that the effort could produce some procedures or rules that would give clarity of understanding and consistency.

In response to that request the BOR reminded the Survey Advisory Board that the BOR was cautioned in 1994 to refrain from adopting rules that were intended to implement or interpret the Survey Recording Act. In that report from the Joint Administrative Rules Review Committee (JARRC) it was pointed out that, while enforcement of compliance with the act resides with the BOR, there is no authority granted to the BOR by the legislature to interpret how the act is applied.

The request by the Survey Advisory Board asked that the BOR take the lead to organize the ad hoc effort comprised of representatives from the BOR, DNR, LSAW, Washington Council of County Surveyors and the Attorney General's Office, and facilitate the work toward the expected result.

While the request was seen as a positive idea, the BOR did not feel it was appropriate for them to lead the effort especially given the JARRC comments in 1994. They felt that it was simply not possible to produce a detailed list of all the conditions that would require a record of survey (ROS) be filed. They felt that ultimately it really comes down to a professional land surveyor using their judgment, based upon the facts specific to the survey, to decide when a ROS is required.

In the alternative, it was suggested that perhaps the Survey Advisory Board itself or the Land Surveyor's Association of Washington (LSAW) undertake the effort and invite representation from organizations and agencies that were interested in the project. Any rule making that was desired and found to be necessary could then be

considered by the DNR for promulgation in chapter 332-130 WAC, Survey Standards.

Governor Locke Makes Quick Decision Appointment

In mid July, the Governor had informed our office that they had offered a Board appointment to Ms. Lisa Brown, PE of Spokane, to replace Ms. Carol Fleskes, PE.

Lisa Brown comes to the Board having worked in private practice as well as both the Department of Health and her current assignment with the Department of Ecology. While with the Department of Health, Lisa was appointed to the first On-Site Advisory Committee. That committee worked with the Board on the implementation of the On-Site Designer Licensing Program. At DOH she was in charge of the Large On-Site Program and spent many hours reviewing designs and inspecting those systems. Her experience in this field as well as her experience in administering a regulatory program will bring significant assets to the Board.

A Reminder From The Board And DNR To Protect Survey Monuments

Citizens of Washington State have invested in property boundaries and survey monuments since before Statehood. These monuments are not only important to delineate public and private ownership; they are critical. However, property corners and survey monuments are often endangered, and in many cases destroyed, by road and utility construction and maintenance that occurs in the rights-of-way and easements along the margins of private property. To guard against this and protect survey monument assets the legislature established a process in 1969 by enacting Chapter 58.24 RCW.

In relevant part, RCW 58.24.020 states, the department of natural resources is designated as the official agency for surveys and maps.

In addition, the permitting process administered by DNR for the temporary removal of survey monuments is found in RCW 58.24.040 (8): “Permit the temporary removal or destruction of any section corner or any other land boundary mark or monument by any person, corporation, association, department, or subdivision of the state, county, or municipality as may be necessary or desirable to accommodate construction, mining, and other development of any land: PROVIDED, That such section corner or other land boundary mark or monument shall be referenced to the Washington Coordinate System by a registered professional engineer or land surveyor prior to such removal or destruction, and shall be replaced or a suitable reference monument established by a registered professional engineer or land surveyor within a reasonable time after completion of such construction, mining, or other development: AND PROVIDED FURTHER, That the department of natural resources shall adopt and promulgate reasonable rules and regulations under which the agency shall authorize such temporary removal or destruction and require the replacement of such section corner or other land boundary marks or monuments.”

Employees of government agencies that oversee and/or are the permitting authority for construction or maintenance in public rights-of-way or easements must take the lead in following this law and thereby protect these monuments. Each agency should adopt as their “best practice” a monument protection plan, which follows the temporary “monument removal permit process” outlined in Chapter 332-120 WAC. Willful noncompliance by a Professional Engineer or Land Surveyor is considered a violation of law upon which the Board of Registration may initiate disciplinary action under their authority in Chapter 18.43 RCW and Chapter 18.235 RCW.

Anyone responsible for or performing construction or maintenance activities that will affect the existence of survey monumentation should consider the following:

- 1.No survey monument shall be removed or destroyed (*the physical disturbance or covering of a monument such that the survey point is no longer visible or readily accessible*) before a permit is obtained from the Department of Natural Resources (DNR). WAC 332-120-030(2) states “It shall be the responsibility of the governmental agency or others performing construction work or other activity

(including road or street resurfacing projects) to adequately search the records and the physical area of the proposed construction work or other activity for the purpose of locating and referencing any known or existing survey monuments.” (RCW 58.09.130).

- 2.Any person, corporation, association, department, or subdivision of the state, county or municipality responsible for an activity that may cause a survey monument to be removed or destroyed shall be responsible for ensuring that the original survey point is perpetuated. (WAC 332-120-030(2))
- 3.Survey monuments are those monuments marking local control points, geodetic control points, and land boundary survey corners. (WAC 332-120-030(3))

When it is believed that many monuments are in danger along a proposed construction route, one permit can be issued for the entire project with location and description details outlined for each monument. The permit will alert others that may encounter the construction or maintenance project and location information will be protected until a new monument is placed.

If you have questions about how this process is to be followed, the monitoring by DNR or how to obtain a permit you should contact David Steele, Survey Manager, (360) 902-1181, dave.steele@wadnr.gov or Ted Smith at (360) 902-1194, ted.smith@wadnr.gov. The form to obtain a permit to temporarily remove monuments is available for downloading at <http://www.dnr.wa.gov/htdocs/plso/download.htm>, by written request, via e-mail or USPS to PO Box 47060, Olympia, WA 98504-7060.

Have We Hit A Nerve?

In the fall and spring Journals we posed a couple topics that seemed to get a fair amount of attention from our readers. In the fall we asked your opinion about the stamping responsibilities for those professional engineers who work in the public sector. Then last spring we asked for your comments on whether the Board’s interpretation and application of “direct supervision” was consistent with contemporary practice.

In both instances we received several comments expressing a wide variety of opinions on these topics. Because the comments received covered the full range of ideas, from strong support or objection to general ambivalence, the Board concluded that further discussion would be helpful toward their understanding of whether formal changes should be considered.

To that end we have scheduled a series of workshops around the state to give as many licensees as possible the opportunity to put their remarks before the board regardless of which side of the topics they stand. The workshops will occur in: Tacoma (LaQuinta Inn) on January 7th, Everett (Howard Johnson's) on January 21st and Spokane (Airport Ramada Inn) on January 28th, (all 2004). On each of these days we will have an open forum starting at 7:00pm where individuals may offer oral or written comments or just listen to the comments of others. In the event there is a large group of individuals who show up we may need to limit the amount of time for each presentation. However, everyone will be given the opportunity to express their opinions.

To assist us in the planning for these workshops we ask that you let us know if you plan to attend. All you need to do is send e-mail to engineers@dol.wa.gov and let us know which date/location you prefer. Written comments can, of course, be provided at any time.

The Board has not established a timetable to make a decision so don't be concerned if you cannot attend on the dates now scheduled. Additional opportunities will be available.

As The Courts See It

With this edition we are introducing a new feature article to the Washington Board Journal. As the title would suggest, we intend this article to be where we share information on court decisions (old or new) that may have an impact on the practices of engineering and land surveying. Since some articles, including the following example, come from court decisions in other states, we need to point out that these decisions are not necessarily binding upon those that practice under Washington law.

Commonwealth Court of Pennsylvania, Aug 9, 2002

According to the commonwealth Court of Pennsylvania, the use of the word "engineer" as part of a title does not violate the state's engineering registration law. This opinion reverses the position of the Pennsylvania

State Board of Professional Engineers, Land Surveyors and Geologists.

A graduate engineer, Daniel Garcia was employed by a construction company that performed construction. The position held was titled "project engineer" even though neither he nor the firm offered or performed engineering services. His activities did not involve direct contact with the general public and he did not hold a license as a professional engineer.

In performing his duties he sent a letter to an engineering firm that discussed a street improvement project that had been awarded to his employer. In signing the letter Mr. Garcia used his "project engineer" title. Believing that his use of the word "engineer" was a violation of state law, the Pennsylvania Bureau of Professional and Occupational Affairs took the matter to Pennsylvania's State Board of Professional Engineers, Land Surveyors and Geologists. After a hearing, the board found against Garcia and fined him \$250, claiming he had violated the registration law by practicing engineering without a license.

Garcia appealed the decision arguing that he never offered to provide engineering services and there was no one being misled by his use of the title. The court agreed and reversed the board's decision. According to the court, Garcia's use of the word "engineer" in his title did not mean that he was offering to practice of engineering nor was there evidence that anyone was led to believe that Garcia was a professional engineer.

What does Washington Law say?

In relevant part, RCW 18.43.010 provides:

"In order to safeguard life, health and property...it shall be unlawful for any person to practice or to offer to practice...engineering or land surveying...or to use in connection with his name or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a professional engineer or a land surveyor...unless...registered under the provisions of this chapter."(Emphasis provided).

It's Not Too Early

In the summer of 2004 two positions on the Board will be subject to appointment or reappointment by Governor Locke. One position is for a professional land surveyor and one is for a professional engineer.

Next year marks the end of the ten years of service

to the Board by Daniel Clark, PLS. It is also the end of the first term of Lyle Hansen, PE. For Mr. Clark's position a new appointment of a professional land surveyor will need to take place. The position held by Mr. Hansen is for a professional engineer. The governor will consider new applicants as well as any request by Mr. Hansen that he be reappointed to a second term.

Are you interested in filling a role that can significantly influence the direction of engineering and land surveying practice in Washington? Do you know of someone who has the commitment to tackle the tough issues involving licensure of engineers and surveyors for at least the next five years? If so, now is not too early to start the application process.

On our website (www.dol.wa.gov/engineers/engfront.htm) you will find a link that contains basic information on the qualifications for board service as well as an idea of the type of work and time commitment an appointee can expect. In addition you will find the application form and the address of where to send the application.

Using the Designated Engineer or Land Surveyor

Licensees who are designated engineers (DE) and/or designated land surveyors (DLS) for businesses are expected to assure that the engineering and land surveying services provided by the business are in compliance with Washington law. What happens if the management of the business fails to enable the DE or DLS to carry out their responsibilities diligently? Are some businesses meeting the letter of the law, but skirting the intent? What can a DE/DLS do when the business interests challenge their interpretation of their duties? Should anything be changed or added to the laws and rules governing the Certificate of Authority (COA) or the role of the DE/DLS? These are questions your Board is pondering.

Washington Law (RCW 18.43.130) allows a corporation, joint stock association or limited liability company to offer and/or provide engineering or land surveying services only if the business obtains a COA from the Board. To obtain a COA, among other requirements, the controlling body of the business must file with the Board a certified copy of a resolution that designates a professional engineer and/or a professional land sur-

veyor and pledges that the controlling documents of the business shall be amended to state that the DE and/or DLS, or a PE or PLS under their direct supervision shall make all engineering or land surveying decisions pertaining to engineering or land surveying activities in the state of Washington. Those designated must also file a signed affidavit stating that they accept the responsibilities of their assignment. The Board, in granting the COA, expects each business to provide an administrative structure that encourages their designated licensee(s) to carry out their duties under Chapter 18.43 RCW. But is that expectation being met?

In this scenario, which is conjured up from the perspective of a DE in an actual situation, a business envisions that engineering or land surveying services are a logical extension of their activities and obtains a COA. However, management comes to feel that involving the DE in all appropriate reviews and decisions is an unproductive and inconvenient nuisance, particularly as such services are a small fraction of their total work scope. Management processes effectively ignore the existence of the DE function, and enable some non-licensees to carry out duties they are not qualified to perform. All of the required paperwork is in place with the Board; yet, the DE is left on his own to carry out his accepted responsibilities as best he can. When the DE raises objection to being ignored, his action is interpreted as a "can't do" attitude by management. The DE is told that management is depending on his creativity and company loyalty to keep the business out of trouble with the Board. The DE fears that going to the Board with the situation would put him in the line for unemployment benefits. Does this scenario come closer to fact than fantasy often enough to be a concern? What other scenarios are there that illustrate your concerns?

As it stands now the integrity of the COA system relies primarily on the DE/DLS refusing to serve if conditions are not conducive to the proper discharge of their responsibilities. Should the businesses with a COA be required to have on file, and available to the Board, a document that describes the practices and procedures followed to assure that the DE/DLS has awareness of all engineering or land surveying activities engaged in by the business or would that be an unnecessary encumbrance? If compliance with the law is unsatisfactory to the DE/DLS, should the DE/DLS resign from their role as DE/DLS and risk termination of employment? Do we place too great a burden on the DE/DLS? Is the

COA an effective method of assuring businesses provide quality services to the public or is it an unnecessary burden on business?

Please express your views or comments to Ron Torrence, PLS at rtorrence@dol.wa.gov. We want to hear from you, particularly COA holders, and designated engineers and designated land surveyors! We appreciate and will be highly influenced by your opinions and facts. For those concerned about their privacy, anonymous communications are welcomed.

Washington Board Continues Discussions With Canadian Licensing Association

In the last “Message from the Chair”, Board Member Hal Williamson shared his thoughts on the activities that have occurred in studying the possibility of improvements to the mobility of engineering licensure between the state of Washington and Canadian Provinces. Last spring this effort involved a joint meeting of representatives of the eight participating governments within the Pacific Northwest Economic Region (PNWER). That meeting produced a draft resolution that was presented to the 13th Annual PNWER Summit in Calgary, Alberta in July.

The delegates in attendance at the Summit were presented with the proposal and through unanimous acceptance, the Summit delegations endorsed a resolution dealing with licensing of professional engineers. The proposal encourages its member jurisdictions to issue a license to a person from another jurisdiction where, in the opinion of the governing Board or Council, the licensure requirements of the home jurisdiction are substantially equivalent to those required by the host jurisdiction. It further urged legislative representatives to introduce any necessary legislative amendments to facilitate such agreements.

While the Washington Board has not reached a conclusion on the question of equivalency between the PE and the P.Eng., they have committed to making a thorough comparison of both licensing models toward a future decision on equivalency of the credentials. The current Board approach is to focus less on each component of the licensing process and to focus more on the equivalency of the end product, the quality and competency of the professional engineer and their abilities to

safeguard the public welfare.

Your opinions on this topic are welcome; address them to George Twiss, Executive Director at the Board office or e-mail to gtwiss@dol.wa.gov.

Annual Meeting Of NCEES Adopts New Definitions In Model Law On Land Surveying

At the annual meeting of the National Council of Examiners for Engineering and Surveying (NCEES) the council of member boards adopted sweeping changes to the model law affecting the definition of land surveying and the definition of Model Law Surveyor (MLS). Complete details of these actions can be found by going to the Board’s website: www.dol.wa.gov/engineer/engfront.htm and touching the link to NCEES NEWS.

ACTION HIGHLIGHTS:

A MLS is now defined as a graduate of an EAC/ ABET-accredited program, a Surveying and Mapping Group program accredited by ASAC/ABET or the equivalent, has passed the 8-hour NCEES Fundamentals of Surveying, the 6-hour NCEES Principals and Practice of Surveying AND completed four years of acceptable experience after confirmation of the BS degree.

Some of the changes to the NCEES Model Law affecting the definition of surveying are summarized below. While individual state boards are under no obligation to adopt these changes or even agree with their content, the model law can be an aid to those states organizations that wish to pursue such amendments.

SECTION 2. DEFINITIONS

(B) Professional Surveyor (Professional Land Surveyor, Professional Surveyor and Mapper, Geomatics Professional, or equivalent term)

- (2) Practice of Surveying - The term “Practice of Surveying” within the intent of this Act shall mean providing, or offering to provide, professional services using such sciences as mathematics, geodesy, and photogrammetry, and involving both
 - (1) the making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvements on the earth, the space above, on, or below the earth and
 - (2) providing, utilizing, or developing the same into survey products such as graphics, data, maps,

plans, reports, descriptions, or projects. Professional services include acts of consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting gathered measurements and information related to any one or more of the following:

- a. Determining by measurement the configuration or contour of the earth's surface or the position of fixed objects thereon.
- b. Determining by performing geodetic surveys the size and shape of the earth or the position of any point on the earth.
- c. Determining the position for any survey control monument (non-boundary) or reference point; establishing or replacing any such monument or reference point.
- d. Creating, preparing, or modifying electronic, computerized, or other data relative to the performance of the activities in the above described items a. through c.
- e. Locating, relocating, establishing, reestablishing, or retracing property lines or boundaries of any tract of land, road right-of-way, or easement.
- f. Making any survey for the division, subdivision, or consolidation of any tract(s) of land.
- g. Locating or laying out alignments, positions, or elevations for the construction of fixed works.
- h. Determining, by the use of principles of surveying, the position for any survey monument (boundary or non-boundary) or reference point; establishing or replacing any such monument or reference point.
- i. Creating, preparing, or modifying electronic or computerized or other data, relative to the performance of the activities in the above described items e. through h.

Incidental Surveying Practice By Professional Engineers

This topic title may be confusing to some who have always understood that while, engineers and land surveyors are regulated under a common statute and board, their respective scopes of practice were unique and separate. That understanding is valid when reading the language found in the Engineer's Registration Act, Chapter 18.43 RCW. Since its enactment in 1947, that law has shown that these two

professions have different and separate scopes of practice.

Having said that it is also noteworthy that the board, dating back as far as the 50's, has held the position that a certain type of work defined under the definition on the practice of land surveying could be performed by professional engineers. That position, apparently based upon an informal AG opinion from 1946, generally recognized that engineers were able to perform topographic surveys on sites where they were to use the topography themselves for a site development design prepared under their supervision. Over years, since the board has continued to hold that interpretation but added the expectation that, when an engineer performs such work, that it was competently performed and must meet the *standard of care* that would otherwise be expected of a professional land surveyor.

Recently, there has been reason for the Board to reexamine this long-standing position. Initiated by an effort to clarify the scope and type of surveying permitted to be performed by On-Site Wastewater Designers under Chapter 18.210 RCW, research on the *incidental practice* discovered that the informal opinion was based upon statutory language from 1946 that now no longer exists. The language supporting the *incidental practice* was removed when the 1947 amendments were enacted.

The Board is very interested in hearing from those of you that have experience on this topic. Specifically, practicing land surveyors and those professional engineers who have performed topographic mapping under the board instructions outlined above. What do you think of this practice? Should it be formally enacted by amending chapter 18.43 RCW or should it be discontinued? Should this practice be limited to only licensed professional land surveyors or allowed to continue as is?

The Board's deliberation on this topic will benefit from your input. **The workshops discussed in the article "*Have We Hit a Nerve*" will allow you an opportunity to express your thoughts.** You may also send e-mail comments to: Engineers@dol.wa.gov.

"Do It" . . . On-Line (please)

In September of 2002 licensed engineers and land surveyors were given the opportunity to renew their individual licenses through an on-line renewal service. When renewal notices were sent out, individuals were informed that they had the option to access the Department of Licensing website with use of a unique password shown on the renewal notice. Once logged on it was a

simple matter of verifying the information and entering the account number of a VISA or MasterCard. In the months that have followed we have seen increased use of this service and we are currently averaging about 17% of our total renewal activity via the on-line transaction. Starting in June of this year the on-line service was expanded to enable corporations and LLCs to renew as well. In addition, the opportunity now exists to make changes to address, phone and e-mail information.

The Department and the Board wishes to encourage each of you to consider this option when it comes time to do your renewal. On-line renewals offer state-of-the-art security, user friendly process, enable a turn around of license renewal confirmation in as little as five minutes with receipt of the new license in as little as one week. It also provides a printed confirmation of the transaction that can be used to verify license status while awaiting the DOL license in the mail.

If you have had the choice to renew your license in recent months and chose not to use the on-line service we are interested in your reason. We are very interested in hearing from you if you found the access, procedures or instructions difficult to follow or understand. We want to address any part of the system with improvements if it is not “user friendly”. Please let us know by sending your response to: engineers@dol.wa.gov.

The Washington Board Journal Questions & Answers



BRANCH OFFICES

QUESTION: Yesterday I noticed that a local engineering/land surveying firm had opened a branch office in a city about 2 hours from where their headquarters is located. When I spoke with the owner he said that their business was growing and that they needed this office to help service their customer base in that area. He went on to tell me that his resident land surveyor at the headquarters will do “double duty” and supervise the new office location as well since it is so close.

In reading the language in WAC 196-25-050, Branch offices and places of business, it specifically states that, “...(a) firm maintaining branch offices shall have a resident professional engineer or resident land surveyor,

for each branch office as well as the parent location.” Doesn’t the firm need to have a different surveyor for the branch office? Can that branch office offer engineering if the only licensee in residence is a PLS?

ANSWER: The intended use of one surveyor to manage the surveying of both the headquarters and the branch office is not allowed under the Board rule. In addition, if the intention of the owner is to offer and provide both engineering and surveying from the branch office, then the branch office must have a resident PE and PLS. A PLS is not qualified to be in direct supervision of engineering any more than a PE is for land surveying.

PRACTICE OF ENGINEERING & GEOLOGY

QUESTION: I am licensed in civil engineering and since the establishment of the state Geologists Licensing Program I have seen increased confusion on the part of local regulators who are unsure about whether either a professional engineer or licensed geologist can perform certain types of work. I see this confusion leading to the risk that a geologist may be permitted to perform engineering because the local officials are unwilling to make the distinction. Is there any clarification the board can offer to this?

ANSWER: The situation between licensed professional engineers who practice “Geotechnical Engineering” and geologists licensed as “Engineering Geologists” was assumed to be understood when the legislature enacted the Geologists Licensing Program. They have recognized that the two professions have similar technical and professional skills in those areas of practice that fall under the definitions found in Chapter 18.43 RCW (Engineer’s Registration Act) and Chapter 18.220 RCW (Geologists Licensing Act).

A couple of years ago, the following discussion appeared in this Journal. Its purpose was to put the relationship of these professions in a more understandable way:

“An engineering geologist is an earth scientist who has specialized in the application of geologic measurements and principles to civil works. A geotechnical engineer is a professional engineer who has specialized in the design and construction aspects of earth materials. Both professions share many of the same knowledge, skills and abilities. Each field, however, has particular strengths. Engineering geologists typically have greater skills in characterization of geologic conditions and processes, and in evaluation of how processes will be

affected or will affect a specific development activity. Geotechnical engineers will typically have greater skill to integrate typical engineering design principles with site-specific geotechnical recommendations and criteria.”

An even simpler way to explain the difference is: An Engineering Geologist compiles scientific data that is then used by the Geotechnical Engineer in the design of the site development.

PRACTICE OF ON-SITE WASTEWATER TREATMENT SYSTEM DESIGN

QUESTION: My Designer License/Inspector Certificate is due for renewal soon. I see the law says I must have continuing education but nowhere does it say how many hours, when or how I am to report it, or any other reference to continuing education.

ANSWER: You are correct, currently there is no reference to continuing education apart from the RCW requiring it; therefore you do not have any CE conditions to meet for your renewal at this time. At present the Board and the On-Site Advisory Committee have started the process to develop rules for this implementation. The Board, through it's On-Site Advisory Committee, held three public forums across the state in an effort to obtain comments and opinions from those affected licensees and certificate of competency holders regarding this issue (see the “Continuing Education” article on page 11).

QUESTION: I just recently received my copy of the publication “*Guidelines for the Professional Practice of On-Site Wastewater Treatment System Design*” and would like to know if I really have to do everything the guidelines say I do? Right now I'm not required by my local health district to complete many of those tasks outlined in the guideline. Where do I stand?

ANSWER: The answer to your question goes to the core of what it means to be licensed as a professional by this Board. To quote section 7 of the Guidelines, “*Areas of Responsibility for the Design Professional - ‘...successfully obtaining a permit for design is not the sole measure of determining whether the licensed professional has met their obligation, rather the true measure is whether due consideration was given to influences affecting the design and success of the project.’*” Your obligation as a licensee may extend beyond meeting the minimum expectation of the local health officer. The decisions that guide your practice need to recognize this higher expectation. You should refresh your awareness of the provisions of

the fundamental canons and guidelines for professional practice and conduct – WAC 196-33-200, with which all licensees are obligated to be familiar. Copies of the guidelines and the above referenced WAC are available from our website at <http://www.dol.wa.gov/engineers/onsitefront.htm>.

Board Website

The Board's website is a good resource for our licensees and applicants to stay informed on Board activities. We continue to update the web page with information that we think will be helpful to you, and welcome feedback in that regard.

Listed below is some of the information that can be found on our website <http://www.dol.wa.gov/engineers/engfront.htm>:

- **The Law Relating to Engineering and Land Surveying** along with each of the chapters of the Washington Administrative Code (WAC) that are applicable to these professions. These can be located under the “Quick Clicks” section, found on every page within the website.
- **All of the forms** that are needed to obtain a license, file for retired status or file a complaint. These forms can be filled out “on screen” but will need to be sent to the Board via USPS mail or fax. We are not able to accept electronic filings at this time.
- **The licensee database.** This link will send you to a secure site, from which you may look up licensees by name, license number and license status. This information is also available for all professions that are licensed by the Department of Licensing.
- **The schedules for the Board meetings and examinations.** Each of these pages are frequently updated. The examination page also contains links to the state specific examination formats, and a link to the National Council of Examiners for Engineering and Surveying (NCEES).
- **Board Journals.** This page has the current and previously published Board Journals, dating back to 2000. If you would like a copy of earlier versions of the Journal, please e-mail us at engineers@dol.wa.gov
- **Board contact information.** This page lists the names of Board staff, along with telephone numbers, and e-mail addresses.

If there is other information and services you think we should incorporate into the website please let us know.

On-Site Designer Licensing

Continuing Education For On-Site Program

With the expiration of the transitional "Practice Permit" phase of this new program came the need to direct attention to the continuing education aspects. RCW 18.210.170 directs the Board of Registration for Professional Engineers and Land Surveyors (Board) to *require* continuing education or continuing professional development as a condition for renewal. While mandatory continuing education for professional land surveyors is a current legislative proposal initiated by the Land Surveyors Association of Washington, law governing the On-Site program already specifically states: "*The Board shall require licensees and holders of certificates of competency under this chapter to obtain continuing professional development or continuing education...*"

In developing a basic understanding of what form and function the CE requirements will resemble, the Board and the Advisory Committee have initiated the process by holding a series of "constituent" workshops to better understand how the industry sees this requirement and hopefully develop procedures that reflect as much agreement as possible. While attendance at the workshops could not be considered robust, those who attended offered many sound and valid comments and opinions.

Certainly a wide range of opinions exist in this industry on the effectiveness of mandatory continuing education in influencing practice and affecting a higher level of public protection. Concerns over the availability of quality continuing educational opportunities, costs, applicability, reporting alternatives, number of hours, frequency, penalties for non-compliance, and assuring effectiveness were just some of the issues shared.

All these and more are issues that the Advisory Committee will be contemplating while forming their recommendation to the Board in the next step of the process. That recommendation will be in the form of draft rules for the Board to consider. A round of public hearings will be conducted in accordance with the Administrative Procedures Act with formal adoption by the Board to follow. While no specific timeline has been established, it is anticipated that draft rules will be available in early 2004.

Whether or not you are a licensed On-Site Designer or Certificate of Competency holder, the Board would

be very interested in any comments you wish to share. You can conveniently do so by sending e-mail to onsiteprog@dol.wa.gov, or in writing to the attention of Joe Vincent Jr., On-Site Program Manager, at the Board office.

On-Site Wastewater Treatment System Designer Licensing Examination

The Board administered the fifth licensing examination for On-Site wastewater treatment system designers and inspectors on April 12, 2003. A total of 105 applicants were approved to take the exam. The following is a breakdown of applicants and performance:

THE RESULTS

	Designers	Inspectors
Pass	64	14
Fail	21	2
No-Show	1	3
Total	86	19

Board Studies Possible Adjustment In Fees For On-Site Program

When the On-Site designer licensing program was created by the legislature, the Board and the Department had to set fees that would fully cover program costs. Making the program self-supporting is required in state law, and the fees originally set were an estimate without reliable statistics to show how many licensees and inspectors would eventually seek licensure/certification.

As we have gained experience with the program, it has become evident that the original fee structure should be reviewed. It is possible that the fee for a designer's license renewal will end up being higher than the renewal fee for a certificate of competency. Our goal is to obtain an equitable balance between the costs to run the program and the necessary fee structure to meet those obligations.

In the next few months you will see a proposal come forward from the Department of Licensing on adjusting the On-Site fee structure. At that time we hope you take the time to express your views during the public comment period or hearing. If you are not already on the distribution list for On-Site mailings please contact Joe Vincent at (360) 664-1567 or jvincent@dol.wa.gov.

Examinations

April 2003 Examination Results

	Total	Pass	% Pass
Fundamentals of Engineering (EIT)	483	351	73
Principles & Practice of Engineering			
Architectural	1	0	0
Chemical	8	6	75
Civil	285	155	54
Electrical	52	26	50
Environmental	18	16	89
Mechanical	82	52	63
NAME	5	5	100
Structural II (am)	30	15	50
Structural II (pm)	33	15	46
Fundamentals of Land Surveying (LSIT)	33	15	46
Principles & Practice of Land Surveying (NCEES)	19	15	79
Principles & Practice of Land Surveying (State)	60	16	27

NCEES Announces New Format For Structural II Examination

The format for the Structural II Examination will be changing starting with the April 2004 administration. The new exam will require solving a choice of four problems and they will be scored as a composite. There will be four problems covering bridges or four problems covering buildings. An examinee that answers bridge problems in the morning will be required to answer bridge problems in the afternoon. An examinee that answers building problems in the morning will be required to answer building problems in the afternoon. Examinees will be required to pass the total exam in a single administration. The scores will be reported to each Member Board as either pass or fail for the total exam.

The current exam consists of one problem given in the morning and one problem given in the afternoon. The afternoon problem always has seismic content. The materials and type of structure vary in both the morning and afternoon. The scores are reported to each Member Board as either pass or fail for each part. Before this change Washington would allow examinees to pass the morning and afternoon portions separately.

If you have any questions about this format change please feel free to contact the Board office.

Forest Engineering Exam May End With October 2004 Administration

At their May 8th meeting, the Board voted to discontinue the Forest Engineering examination after the October 2004 administration, UNLESS, there is compelling rationale from the forest engineering profession and industry that this examination is necessary to protect the public welfare.

For more than 15 years the Forest Engineering examination (formerly Logging Engineering exam) has seen little usage. This exam is offered once a year with usually one or two applicants taking the exam each time. There were several years when the Forest Exam was not given because there were no applicants.

In their Fall 2002 Journal, the Board posed several questions regarding Forest Engineering and requested feedback from the profession. The ten engineers who responded had well thought out comments and suggestions, but that was a very small response relative to the size of the industry and it did not provide the rationale needed to continue the exam. Consequently, the Board has determined that the expenditure of resources to continue writing and grading this 8-hour engineer licensing examination is not justified. Another important factor that influenced the Board's decision is the fact that it is nearly impossible to statistically validate an examination with such low use.

Before finalizing the plans to eliminate this examination the Board is again requesting feedback from the Forest Engineering profession and from the forest industry itself. If a case for continuing the exam to protect the public, can be established, and there is a significant increase in the number of applicants for licensure, the Board may reconsider this planned action.

Comments may be sent via letter, fax or e-mail by November 30th to:

Rick Notestine
Examinations/Licensing Manager
Fax: (360) 664-2551
Email: rnotestine@dol.wa.gov

NCEES To Enhance Examination Security

NCEES Exam Policy prohibits devices or materials that might compromise the security of the examination or examination process. It has been determined that certain models of calculators might have been previously allowed in NCEES examination sites that provide communication capability through the use of infrared technology or through the use of cards that enables communication via radio transmission. In many cases, these models may also afford a text editing capability that enables the user to enter and store information in the calculator's memory.

Beginning with the April 2004 examination administration, the National Council of Examiners for Engineering and Surveying (NCEES) will begin strictly enforcing limits on materials that are allowed in examination rooms. With the April 2004 administrations of all NCEES engineering and land surveying examinations, calculators with communication or text editing capabilities will be banned from all NCEES exam sites. These include, but are not limited to: HP 48GX, HP 49G, TI-83 Plus, TI-83 Plus Silver Edition, TI-89, TI-92 and Voyage 200.

For further information, please contact Jerry Carter at 1-864-654-6824 or visit the NCEES Web site at www.ncees.org.

Investigations & Enforcement

Statistics of Disciplinary Actions Taken by the Board from Jan. 1, 2003 through June 30, 2003

Active investigations as of January 2003	53
Complaints Opened for Investigations	22
Investigations Closed	36
Active Investigations as of June 30, 2003	39

Summary by Month:

	Complaint Received	Inquiry Received	Investigation Opened
January	4	11	6
February	8	2	3
March	0	2	1
April	No Meeting		4*
May	5	2	4
June	4	10	4
Totals	21	27	22

Summary by Profession as of June 30, 2003

	Active Investigations	Compliance Orders
Prof. Engineers	16	4
Prof. Land Surveyors	5	3
Unlic. Engineers	4	0
Unlic. Land Surveyors	6	0
On-Site Designers	6	0
Totals	39	7

Summaries Of Investigations And Actions By The Board

In the following case summaries you will read of the disciplinary actions against licensees from January 1, 2003 to June 30, 2003. In each disposition the Board accepted the recommendations of the case manager, unless stated otherwise. For those cases involving a Board order, each licensee will be monitored for compliance. These summaries are not intended to disclose complete details related to any given investigation or action. While every effort is made to ensure accuracy of the information shown, anyone intending to make a decision based upon this information should contact the Compliance Officer, John Pettainen, at (360) 664-1571 for full details.

FORMAL ACTIONS:

Engineering Practice

Dennis Bruce, PE, Case No. 00-02-0001

This investigation was based on allegations from a property owner that Mr. Bruce failed to competently perform and complete engineering services in connection with the perk test, drainage evaluation, and plans for a proposed addition to the complainant's residence. In addition, Mr. Bruce failed to respond to the Board's inquiries regarding the matter.

The case manager found Mr. Bruce's conduct unacceptable and contrary to the standard of care for a professional engineer. Based on that conclusion, the case manager authorized the issuance of Statement of Charges.

After the issuance of the charging documents, additional information was obtained concerning Mr. Bruce's engineering activities on said project. After evaluating this additional information, the case manager determined there was insufficient evidence and on June 3, 2003 the Board issued a Notice of Withdrawal of the Statement of Charges.

Thomas Hendershot, PE, Case No. 01-08-0002

The Board's investigation of Thomas Hendershot, PE was opened based on allegations that he took copies of civil engineering design plans prepared by another engineering firm, removed the title block information and the seal/signature of the firm's PE and replaced said seal with his own. Said plans were subsequently submitted to a local jurisdiction for approval. In response to the allegations, Mr. Hendershot claimed he received the plans from the project owner who indicated to him that they would seek approval by the engineering firm for him to stamp the plans.

It was found that Mr. Hendershot's conduct was inconsistent with the expectations of a professional engineer and authorized the issuance of Statement of Charges. In conjunction with the charge documents, a Stipulated Findings of Fact, Conclusions of Law and Agreed Order ("Agreed Order") was also offered. Terms set forth in this settlement included a \$1000 fine, and that Mr. Hendershot complete and pass the Law and Ethics (take-home examination) as administered by the Board. Mr. Hendershot accepted the settlement offer.

Robert Boyer, PE, Case No. 02-03-0003

This investigation was prompted by a complaint from Vancouver, Washington homeowners concerning the survey practices of Robert Boyer, PE and his Portland, Oregon firm Global Engineering, Land Surveying and Planning Company ("Global"). Allegations included that Boyer and/or Global charged excessive fees, failed to timely complete and/or record their record of survey and while the complainants thought they were contracting with a Washington firm, the firm was actually located in Portland Oregon. Mr. Boyer notified the Board that the survey had been filed and that the complainants were now satisfied. He further noted that a Washington professional land surveyor provided the direct supervision over the survey work performed for the complainants. As it appeared the survey issues were resolved, investigation activities focused on the working relationship between Mr. Boyer and the Washington PLS.

The case manager found that Mr. Boyer and/or his firm Global offered and/or performed land surveying services within this state without a business registration or a Washington PLS on staff.

As a result, a Statement of Charges and settlement opportunity was offered. The settlement terms included a reprimand, \$500 fine, and that Mr. Boyer shall refrain from advertising or performing any land surveying activities until he becomes licensed in this state. Mr. Boyer accepted the settlement offer.

INFORMAL ACTIONS:

Engineering Practice

Case No. 96-08-0002

In August 1996, the Board opened an investigation against an engineering firm based on allegations that the firm was violating RCW 18.43.105 and failed to maintain a designated engineer on staff. The Board found no evidence to support the allegations and in May 1997 closed the investigation with a letter to the firm concerning the need to have a professional engineer in responsible charge of the firm's engineering activities in Washington State. In March 2001 the complainant provided new information about the firm's business practices and asked that the Board reconsider their original decision in this matter.

After receiving the complainant's new evidence, which included, in part, time sheets and documents submitted during civil litigation, the firm's vice-president provided further information related to the firm's business practices in performing engineering activities. In addition, the Board's legal counsel was contacted regarding issues related to federal sovereign immunity. This information was directed to a Board member, not involved in the original disposition, for an independent review. Based on these reviews, it was found that the additional information presented did not support a change in the Board's prior decision.

Case No. 98-08-0003

This investigation involved allegations that a PE was working outside his area of competency in providing water treatment equipment and engineering services to a Water Association. The PE provided a detailed explanation of the activities he performed, the problems he encountered and his efforts to resolve said problems. He further explained he was asked to leave the project before he could finish correcting the problems.

Review by the case manager concluded that the available evidence did not support the allegations made. It appeared that the purchased equipment not performing to specifications led to the problems encountered by the PE and the project delays. It was her belief that the PE used due diligence to attempt to solve the problems but was ordered off the project by the Water Association prior to being able to complete the process.

Case No. 01-05-0012, 01-05-0011

Two investigations were opened due to a complaint from a property owner. It was alleged that the individual, hired to build his future residence, altered the engineering drawings and performed surveying of the lot resulting in his home and driveway/road being mislocated from the original site plan. The alleged alteration of the site plan caused an encroachment into the septic drainage field and destroyed the reserve location for the drain field.

As the allegations related to both land surveying and engineering, two members of the Board, a professional land surveyor and a professional engineer, were assigned as case managers. Based on their review of the investigation file, it was their opinion that the available evidence did not substantiate the allegations made in regards to either engineering or land surveying.

Case No. 02-03-0001

This investigation was opened due to a complaint that alleged a professional engineer was practicing engineering outside his area of competence, performed work on projects in which he has ownership interests, and advertised as a professional land surveyor, while not licensed to do so. Additionally, during the investigation concerns were expressed regarding whether the firm had obtained a Certificate of Authorization from the Board.

While the case manager understood that the activities of the PE could have looked like questionable activities to the complainant, no evidence was found to substantiate the allegations. The PE's response provided reasonable explanations for his actions. Furthermore, during the investigation, the PE passed the Principles and Practices examination for profes-

sional land surveyors and received a Certificate of Authorization for his firm.

Case No. 02-07-0005

This investigation involved allegations that a PE engaged in unethical and unprofessional conduct in connection with the engineering work he performed on a proposed four-unit condominium project. To design the project, the developer hired a design firm who subsequently and without the developer's knowledge, hired the PE to perform the structural design work for the condominium project.

It was the PE's understanding, through a verbal contract, that his fees would be paid by the design firm, however, if the design firm failed to make payment, the developer would pay for his engineering services. The issues in this complaint arose after the PE completed and delivered his design and the design firm refused to pay. After numerous phone calls to the developer and the design firm's owner, he contacted the city and rescinded his engineering design.

Given that the issues surrounding this complaint were contract and fee issues not related to the PE's engineering design, the case manager recommended the case be closed with no action.

Case No. 02-07-0007

This investigation, prompted by a complaint filed by a local health district, alleged that a PE engaged in unprofessional conduct as defined in RCW 18.210.020 for onsite design activities. Allegations included that the PE submitted a design application with false information, demonstrated a lack of familiarity with county codes, and while signing the application as a PE, he failed to seal said document.

After review of the investigation file, it was the case manager's opinion that the available information showed no evidence that the PE's activities involved any On-Site sewage system design or installation problems that would require engineering oversight. It further appeared that the application that resulted in the complaint was not a design application, as claimed, but a retroactive boundary line adjustment to correct a deed error. As such, filling out the application is not the practice of engineering and would not require the stamp of a professional engineer.

Case No. 02-08-0001

This investigation involved review of an enforcement action taken by the Kentucky State Board against a professional engineer, also licensed in Washington. The Kentucky Board had charged the licensee, acting individually and on behalf of his firm, with issuing public statements in other than an objective and truthful manner, soliciting or accepting engineering work outside his or his firm's associates area of competence, and affixing his seal and signature to engineering plans dealing with subject matter in which he lacks competence. As a result of these charges and subsequent hearings related to this matter, the Kentucky Board revoked the PE's license to practice as a professional engineer. The matter is currently under judicial review.

The PE was asked to provide information on what engineering activities he was currently conducting in Washington. In response, an attorney notified the Board that due to the recent move by the PE, the information was not currently available. He asked that the Washington Board suspend the investigation of the PE's engineering activities pending the outcome of the judicial review.

Given that a substantial amount of time has occurred, the Practice Committee recommended the investigation be closed and the matter be revisited when the judicial review is completed.

Case No. 03-01-0005

The Board opened this investigation after receiving an inquiry questioning whether a firm providing engineering services had a Certificate of Authorization and a Washington professional engineer (PE) as the resident engineer. Information obtained during the investigation revealed that the firm is properly registered as a Professional Limited Liability Company and, as such, is not required to obtain a Certificate of Authorization from the Board. Investigation activities revealed that during the firm's initial start-up months a Washington PE residing in Oregon commuted to Washington to oversee the firm's engineering activities. Currently the firm has located in Everett, Washington and has a designated resident engineer on staff. The case manager found

that with the designation of a PE, the firm is in compliance with all requirements.

Case No. 03-04-0001, 03-04-0002, 03-04-0004

The Division of Child Support (DCS) notified the Board that three engineer-in-training registrants were in arrears of child support. As required by state law, an Order of Suspension was mailed to each of the E.I.T.s notifying them that his enrollment as an engineer-in-training was suspended. Said suspension will remain in effect until the Board is notified by DCS to lift the suspension.

Given the issuance of the Order of Suspension, the investigation was closed and the file referred to compliance monitoring.

During the time of suspension the EIT's may not apply for licensure.

Case No. 03-05-0002

This investigation was opened due to a complaint that alleged a firm and/or its employees, through a combination of business cards and web site advertising, was offering engineering services without a Certificate of Authorization and a Washington PE on staff. Board records showed that the individuals named in the complaint were not licensed, nor was the firm. Investigation activities disclosed that the company had already been notified and had already taken steps to change the business cards and the firm's web site to reflect the work they actually perform. Said actions brought the firm into compliance and provided the remedy requested by the complainant.

Land Surveying Practice

Case No. 00-03-0002

This Board generated investigation resulted when research of Department of Natural Resources (DNR) records for another investigation disclosed that multiple recorded surveys by a PLS might not comply with survey standards. While the case manager, after review of the investigation file had authorized the issuance of a statement of charges, Board staff was notified that the licensee had passed away prior to resolution of this matter.

Case No. 01-02-0003, 01-02-0004

These investigations were opened based on two complaints that alleged an individual, unlicensed with the Board, engaged in the practice of land surveying. Within these complaints, it was alleged that the individual agreed to perform a survey, negotiated and accepted the fees and performed the necessary fieldwork. At the time of these actions, the Board office had no record the individual was registered/licensed to practice as a professional land surveyor. In response, the individual did not deny the allegations but claimed he works part-time for a land surveying firm and performed these activities under the direct supervision of the firm's licensee.

In the case manager's opinion, it appeared that this individual solicited and performed the survey activities on the complainant's project and that the project was only turned over to the licensee's firm when he encountered problems. Furthermore, it appeared that the individual openly solicits surveys without the licensee's oversight.

Given that the individual is not licensed with this Board the matter was referred to the county prosecutor.

Case No. 01-08-0006

This investigation was initiated based on a complaint from a professional land surveyor concerning statements and survey activities performed by an individual, not licensed with the Board. The complainant alleged that individual made false, misleading or deceptive statements concerning his professional credentials under oath. Also alleged was that the individual, in performing a survey, failed to perform adequate research; erroneously established a boundary line; failed to record the conflict in title he created; filed an incomplete survey to try and defend the placement of the property line; and, operated a business without a business license.

In regards to the allegations related to the survey it was the case manager's opinion that no action could be taken against the individual since his activities were performed under the direction of a licensee. However, the case manager also believed that the official transcripts of the litigation concerning the survey performed, showed the respondent claimed to be licensed as a professional land surveyor.

Given that the individual is not licensed the matter was referred to the county prosecutor. Also recommended was that the Board office maintain a record of this matter in the event the individual applies for registration/licensure in the state.

Case No. 02-03-0002

This investigation, initiated by the Board, resulted from another investigation that questioned the working relationship between a professional land surveyor (PLS) and professional engineer (PE). As both licensees had their own firms, of specific concern was whether the PE was performing surveying activities and how the PLS provided direct supervision over those activities. During the investigation further concerns were expressed about the business registration for the PLS's firm and whether he needed to obtain a Certificate of Authorization from the Board.

During the investigation, state agency records were updated to properly reflect the PLS's firm as a sole proprietorship, therefore, not requiring a Certificate of Authorization. In addition, the case manager found no evidence to substantiate the allegations in that the PLS's explanation satisfactorily addressed the Board's concerns about his working relationship with the PE.

Case No. 02-07-0004

This investigation was opened due to a complaint that alleged a professional land surveyor (PLS) and/or his crew trespassed on the complainant's property while performing a survey for his neighbor and failed to file the record of survey.

While the issue of trespassing is a civil matter, it was the case manager's opinion that there was no evidence to support the allegation that the PLS failed to timely file a record of survey. It appeared that the survey had not been filed due to pending court litigation concerning a boundary dispute between the complainant and his neighbor. While the court has issued an order concerning that dispute, that order is currently being appealed.

Case No. 02-08-0003

This investigation was one of two investigations opened by the Board based on information from a

property owner. The property owner advised staff that an individual, while performing On-Site design activities for his property, also performed surveying activities to verify the property's lot corners. As the named individual was in revoked status on the Board records, further information was obtained that showed that the individual replaced two missing lot corners with caps that were identified as belonging to a current licensee. The property owner claimed he had no knowledge of that licensee being involved in the survey.

While the individual initially stated he performed the surveying activities under the direction of the licensee, during the course of the investigation, the individual admitted to performing the survey activities without the licensee's direct supervision. He further stated the caps used were from a prior working relationship with the licensee.

Given that the individual is not licensed the matter was referred to the county prosecutor.

Case No. 02-08-0004

This investigation was one of two investigations opened by the Board to determine who performed what activities in connection with a survey performed by an individual whose license to practice as a professional land surveyor was revoked by the Board in 1987. Information obtained from the property owner revealed that this individual conducted a survey to verify the lot corners of the complainant's property. In performing these surveying activities, the individual replaced two missing lot corners with caps identified as being registered to a current licensee. The property owner claimed he had no knowledge of that licensee being involved in the survey.

Initially, both the PLS and the unlicensed individual claimed the PLS provided direct supervision over the surveying activities, however, further investigation activities disclosed that this supervision, which included verifying the field work and calculations, occurred after the corners were located and the individual used the PLS's caps without his knowledge or permission. It was the case manager's opinion that the actions by the PLS did not rise to the level warranting formal action.

Case No. 02-08-0005

This investigation was one of three investigations opened to obtain information concerning what activities a professional land surveyor (PLS), performed in a survey for the complainant's eastern adjoiner. Said survey showed the location of common property line in the middle of the complainant's driveway, however, a surveyor hired by the complainant showed the same line approximately 11' to the east.

Information gathered during the investigation, disclosed the PLS had no substantial involvement in the project in question other than of analysis. As the PLS was not involved in the placement of corners to which the complainant is objecting to, the case manager found no violations of statutes or rules under the Board's jurisdiction as they relate to land surveying.

Case No. 02-08-0007

This investigation was one of three investigations opened to determine what activities a professional land surveyor (PLS), performed in a survey for the complainant's eastern adjoiner. Said survey showed the location of common property line in the middle of the complainant's driveway, however, a second surveyor hired by the complainant showed the common line approximately 11' to the east. In response, the PLS stated the main issue is whether improvements on the complainant's property encroach on his client's property. He further explained what has occurred on this project; advised that the staking of the boundary of the preliminary plat is the point of contention; and, that the survey has not been recorded since the plat is still under review.

After review, the case manager found no violations of the statutes or rules as they relate to land surveying and it appeared that the main issue of the complaint was a boundary dispute outside the Board's jurisdiction.

Case No. 02-08-0008

This investigation was opened against a professional land surveyor (PLS) concerning a survey he performed on his own property. The complainant, an adjoining property owner, alleged that the PLS's survey failed to agree with two (2) prior surveys, disputes property boundaries that have been main-

tained by fences and structures for over 45 years, and resulted in the PLS moving his property line. Also alleged was that the PLS engaged in unprofessional conduct by trespassing on the complainant's property and engaging in harassing and threatening conduct toward the complainant and his family. During the course of the investigation, a second complaint from another adjoining property owner was received that alleged the same issues.

While the case manager found that the PLS's survey map did have several minor technical issues, it was his opinion that those issues did not rise to the level of infractions that require disciplinary action. The other allegations made related to a boundary dispute are outside the jurisdiction of the Board.

Case No. 02-09-0001

This investigation involved allegations that a professional land surveyor (PLS), who performed a survey for the complainant's adjoiner, failed to provide direct supervision over his staff and timely file a record of survey. Also questioned were the placement of the lead plug in the concrete wall and the setting of a tack and LS tag discovered by the complainant's surveyor. In addition, during the investigation it was discovered that the PLS's corporation had not obtained a Certificate of Authorization from the Board.

It was the case manager's opinion that the available evidence did not support the allegations made. It appeared the record of survey was not filed due to the PLS's client placing a hold on the project so that a boundary dispute could be resolved through the judicial process. The last issue of concern, the issuance of a Certificate of Authorization, was resolved when the PLS submitted an application for his firm and a Certificate of Authorization was issued by the Board.

Case No. 02-11-0004

This investigation was opened due to a complaint from a property owner concerning the surveying activities performed by an individual and/or his firm in support of a building permit application for a proposed residence. Allegations included the unlicensed practice of land surveying and concerns about the acceptance of application documents by the

reviewing agency. Board records showed the individual is not licensed as a professional land surveyor.

The individual, by his own admission, stated he used survey data prepared by a mapping firm and then performed his own research to plot the waterward setback line, the Government Meander Line, and that subsequently he recalculated the lot area for the proposed residence.

The case manager found that the allegations related to the permit review process were outside the Board's jurisdiction. However, it was his opinion that the activities performed by individual regarding the plotting of lines and preparation of a site map constituted the unlicensed practice of land surveying.

Given that the individual is not licensed the matter was referred to the county prosecutor.

Case No. 03-01-0001

This investigation, prompted by a complaint from a property owner, alleged unethical conduct by a professional land surveyor (PLS), his engineering/land surveying firm and/or the firm's employees. Allegations included that the firm and/or the firm's employees, while performing survey activities on the complainant's adjoiner property; trespassed, defaced private property, used illegally obtained data on survey documents, and filed a record of survey concerning a disputed property line without properly verifying the corners. In response, the PLS denied the allegations, described the control data used and explained what activities his firm's employees engaged in. During the course of the investigation, the complainant withdrew his allegations related to the survey map.

The case manager found that the allegations related to trespassing, defacing private property and using illegally obtained survey data were either outside the Board's jurisdiction or withdrawn. In his opinion, the only apparent remaining issues were several minor errors on the survey map related to clarifying the found corners and including the seal/signature of the firm's PLS that actually performed the survey. During the course of the investigation, an amended survey addressing these issues was filed with the County

Auditor's Office and submitted to the Board. The case manager found the amended survey to be acceptable.

Case No. 03-01-0002

This investigation resulted from a complaint from a former designated professional land surveyor (PLS) and partner for a land surveying firm. While said firm does have a Certificate of Authorization from the Board, the complainant alleged that after his December 2002 resignation as the designated PLS, the firm continued to offer/perform land surveying services without a PLS on staff. Other allegations related to failure to pay the complainant's promised salary, ownership percentages, and refusal to dissolve the firm. In response, a partner of the firm stated that after the complainant's resignation, the firm did not accept any new surveying jobs and any of the firm's incomplete surveying projects were subcontracted to another PLS. During the course of the investigation, the firm designated a new PLS.

With the designation of a PLS, the case manager found that the firm is in compliance with state requirements and the other allegations presented were contract/business related issues outside the jurisdiction of the Board.

Case No. 03-01-0004

The Board opened an investigation based on an inquiry from an individual that alleged a flyer sent by a firm offered land surveying services. Board records disclosed that two of the individuals listed to provide those services were not licensed as professional land surveyors. In response, the individual who owns the firm, provided a detailed response about the flyer's purpose and explained he is a licensee with the Board but used an alias on the flyer to avoid any name recognition due to a previous business he owned. The case manager expressed concern about the licensee's use of an alias and the truthfulness of the flyer but did not feel the licensee's actions rose to the level of formal disciplinary action.

Case No. 03-04-0003

The Division of Child Support (DCS) notified the Board that an individual was in arrears of child support. Board records disclosed that the named

individual had made application to the Board to sit for the PLS examination in 1992, however, to date, he has not completed the application process.

Given that the named individual by DCS is not a licensee, the case manager recommended that the investigation be closed and the Board's records be updated to reflect the DCS notification in case further application materials are received.

Case No. 03-05-0001

The Division of Child Support (DCS) notified the Board that a land surveyor-in-training (L.S.I.T.) was in arrears of child support. As required by state law, an Order of Suspension was mailed to the L.S.I.T. notifying him that his enrollment as a land surveyor-in-training was suspended. Said suspension will remain in effect until the Board is notified by DCS to lift the suspension.

Given the issuance of the Order of Suspension, the case manager recommended that the file be referred to compliance monitoring.

During the time of suspension the LSIT may not apply for licensure.

Case No. 03-06-0001

The Division of Child Support (DCS) notified the Board that a professional land surveyor (PLS) was in arrears of child support. As required by state law, an Order of Suspension was mailed to the PLS notifying him that his license to practice as a professional land surveyor was suspended. After issuance of said Order, the Board was notified by DCS that the PLS was now in compliance with his child support order and his license could be reinstated. The PLS was notified that the suspension was lifted on June 19, 2003.

On-Site Wastewater Treatment System Designer Practice

Case No. 03-01-0006

This Board generated investigation was opened due to information provided to Board staff from a professional engineer (PE) concerning the accuracy, particularly the topography, of a design, prepared by

an On-Site design firm. The PE declined to provide additional information stating that he informed the homeowners of his concerns and the Board's interest. The homeowners have not contacted the Board related to this matter. Given that no additional information has been provided to the Board to substantiate the allegations, the case manager recommended the case be closed.

Continued from page 2

Message from the Chair

Most ethics policies encompass similar concepts. There are usually two general groups included. One addresses Moral conduct such as; using your position for personal gain; conflicts of interests; gratuities; exerting undue influence and using only the highest standards of integrity. The second group could be called the Golden Rule factors such as being faithful to all with whom you come in contact with; dealing fairly with others; truthfulness; lack of malicious behavior; and assisting and encouraging professional development of your peers, employees and younger people who are getting started.

Industry tends to stress ethical conduct that is to be practiced while functioning within the business community. Factors relate heavily to company image. Professional society and governmental ethics policies tend to stress safety, health and the welfare of the public. Government ethics policies intend to minimize public perception of wrong doings. Such factors as timekeeping, gratuities, and the avoidance of perceived conflicts of interest are common.

At the highest calling the purpose of establishing codes of ethics and practicing them in our everyday lives is, among other things, to assure world business can be conducted on an acceptable and predictable plane. Ethical behavior is what allows us to establish policy and conduct business in the most forthright manner.

So, you ask, where does the above philosophy fit into today's day-to-day life, and in particular to the concerns raised at the beginning of this article? On a

macro-scale the world presently appears to be going through a period wherein major ethical and moral questions are being raised in relation to what had formerly been some of our most trusted standards. The Catholic Church, the Stock Market, the workings of large corporations, the performance of auditing firms are all now under close scrutiny. Because of the lack of ethics being employed in politics in general and in the performance of our politicians and governmental agencies in recent years, the public appears to be losing faith in how we conduct business.

Are these major lapses in ethics we see at the Macro level prevalent at a Micro level as well? History would indicate that day-to-day working relationship problems such as those described herein have existed for as long as man has conducted business. Whether the above listed transgressions are commonplace or whether the engineering-contractor business world is getting "worse" is hard to ascertain. As professionals we have most likely experienced many, if not all of the cited problems sometime during our careers. Each of the concerns listed show a failure of one or more people or their organizations to follow a code of ethics. While we do not have jurisdiction over the conduct of officials, contractors and consultants who are not licensed by the board, we have and will continue to aggressively pursue disciplinary action for reported misconduct by a licensee.

Engineering and Land Surveying are two of a handful of recognized professions whose stature in the business community is heavily influenced by the trust and confidence of the public. Ethical conduct MUST exist at all levels or, in the eyes of the public, the value of boards such as ours will be questionable at best.

Six of the seven types of behavior cited at the beginning of this article indicate a failure to comply with either or both RCW 18.43.105 (Disciplinary Action – Prohibited Conduct, acts and conditions) and WAC 196-27A (Rules of Professional Conduct and Practice).

Although it is the Board's responsibility to enforce the law, we rely heavily on the technical and professional societies to promote ethical standards.

Schedules

Examination Schedule

SPRING – 2004 ADMINISTRATION

Examination	Type	Examination Date	Application Deadline
Architectural, Chemical, Civil, Electrical, Environmental, Mechanical, Naval Architect/Marine, Structural II Engineering	NCEES	Friday April 16, 2004	Tuesday December 16, 2003
Land Surveying (6-hour)	NCEES	Friday April 16, 2004	Tuesday December 16, 2003
Land Surveying (2-hour)	State	Friday April 16, 2004	Tuesday December 16, 2003
Fundamentals of Engineering & Fundamentals of Land Surveying	NCEES	Saturday April 17, 2004	Wednesday December 17, 2003
On-Site Wastewater Designer /Inspector Certification	State	Saturday April 17, 2004	Tuesday January 20, 2004

FALL – 2004 ADMINISTRATION

Examination	Type	Examination Date	Application Deadline
Agricultural, Chemical, Civil, Control Systems, Electrical, Environmental, Fire Protection, Industrial, Mechanical, Metallurgical, Mining/Mineral, Nuclear, Petroleum, and Structural II Engineering	NCEES	Friday October 29, 2004	Tuesday June 29, 2004
Forest Engineering	State	Friday October 29, 2004	Tuesday June 29, 2004
Land Surveying (6-hour)	NCEES	Friday October 29, 2004	Tuesday June 29, 2004
Land Surveying (2-hour)	State	Friday October 29, 2004	Tuesday June 29, 2004
Fundamentals of Engineering & Fundamentals of Land Surveying	NCEES	Saturday October 30, 2004	Wednesday June 30, 2004
Structural III	State	Saturday October 30, 2004	Wednesday June 30, 2004
On-Site Wastewater Designer / Inspector Certification	State	Saturday October 30, 2004	Friday July 30, 2004

2003-2004 Calendar of Events

December

17 Practice Committee *Teleconference*

January

14-15 Committee & Board Meetings *SeaTac*

February

18 Practice Committee *Teleconference*

March

10-11 Committee & Board Meetings *SeaTac*

April

16-17 Exam Administrations *Various*